

Memorandum

City Manager



**Subject: Employee Privacy Rights and Searches**

**Effective Date: September 6, 2001**

**Revised Date: March 6, 2002**

## **PURPOSE**

This policy addresses when and where the City may conduct searches in furtherance of its obligation to maintain a safe workplace, and to ensure that all employees are conducting themselves in a manner that is in compliance with the City's Personnel Rules and Regulations while on the job.

Computers, telephones, fax machines and any other City owned communication device are owned by the City and may be monitored by the City for the purpose of maintaining a safe workplace and to ensure compliance with City rules, regulations and policies.

As stated in the City's Internet and Email Use Policy (see Administrative Memorandum), use of email and the Internet/Intranet by City employees, elected officials, volunteers, and other affiliated organizations who use City-provided resources (regardless of the user's location when accessing the City's network) are

City property. Accordingly, email and Internet sites accessed through the City's network may be monitored in compliance with local, state and federal laws. Employees should not expect a right of personal privacy in any matter created, received, stored in or sent from the City's communications system.

Additionally, employees should be aware that information generated on or handled by the City's communications system is subject to disclosure per the Arizona Public Records Act, Supreme Court Rule 123, or Public Access to the Judicial Records of the State of Arizona. The public can request copies of electronic communications except those that are subject to attorney-client privilege or otherwise legally recognized as confidential. Thus, all communications should be considered open to public view unless a specific determination has been made by the City Attorney's Office to the contrary.

Employees also should understand that all offices, desks, files, lockers, and other City property are provided to employees solely for their use during the course of fulfilling their employment duties with the City. Accordingly, when the City has a reasonable suspicion that an employee has brought a weapon onto City property, a representative of City management is authorized to search any and all persons, locations, and property in the workplace including, but not limited to, offices, desks, files, lockers, purses, briefcases, baggage, toolboxes, lunch sacks, clothing, and City vehicles. The search will be conducted for the purpose of maintaining workplace

safety. Furthermore, the City has the ability to bypass employee passwords and locks. Employees are not permitted to use locks, other than those provided by the City, to secure their assigned offices, desks, files, and lockers while employed by the City.

Additionally, supervisors may search an employee's office, desk, files, locker, and other work and storage spaces in the normal course of business to remove items relating to City business and all personal items that are unlawful or in violation of the City's Personnel Rules and Regulations.

### **Procedure**

Searches may be conducted at any time for reasonable cause as determined by the Department Manager or Director and reviewed by Human Resources, with or without advance notice or consent.

The following guidelines should be followed before a workplace search is conducted:

- Before any search is conducted, Human Resources should be consulted.
- When possible, before a search is conducted, the employee who is the subject of the search should be called into a private location and informed of the impending search in accordance with City policy.

- The supervisor should attempt to obtain the employee's express consent to the search. If the employee agrees to the search, the employee should sign an Employee Consent to Search Form (copy attached).
- When possible, the search should be conducted in the presence of the employee whose area is being inspected.
- When possible, the search should be conducted in an inconspicuous manner and not in the presence of other employees, e.g., after work hours or during a lunch break.
- Two individuals, including the employee's supervisor and one other management employee ideally should be present during all searches.
- One individual should conduct the search and the other should keep a written inventory of the items discovered.
- When the search is completed, department management will work with Human Resources to determine if any further action is appropriate.

### **Notice to Employees and Consent**

This policy will be distributed to all employees through the City's email system. Additionally, a copy will be placed in the City's Personnel Rules and Regulations Manuals. Employees are advised that after distribution and receipt of this memorandum, the employee's continued use of City property, email, Intranet/Internet, and telephone systems demonstrate the employee's consent to this policy.

Attachment (Employee Consent Form)

#### **Approved:**

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Human Resources Manager/Date

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City Manager/Date

#### **Approved as to Form:**

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City Attorney/Date



## Employee Consent to Search

Employee's Name/Title: \_\_\_\_\_

Employee's Dept/Div: \_\_\_\_\_

Employee's ID: \_\_\_\_\_

Employee's Phone #: \_\_\_\_\_

Supervisor's Name/Title: \_\_\_\_\_

Supervisor's Phone #: \_\_\_\_\_

Reason for Search: (i.e., workplace safety threatened, alleged violation of personnel rule . . .)

I, \_\_\_\_\_, understand that City Manage-  
*Employee's Name*

ment wishes to search the following area(s):

For the purpose(s) stated above, I understand that my signature authorizes my consent of this search. I also understand that this search will be conducted in accordance with City policy.

Furthermore, I understand that if I do “not” consent to this search, that I may be disciplined, up to and including termination.

I, \_\_\_\_\_, consent to this search on  
*Employee’s Name*  
\_\_\_\_\_.  
*Month/Day/Year*

I, \_\_\_\_\_, do “not” consent to this  
*Employee’s Name*  
search on \_\_\_\_\_.  
*Month/Day/Year*

Witnessed by \_\_\_\_\_  
*Employee’s Supervisor or Manager*  
on \_\_\_\_\_.  
*Month/Day/Year*

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